

UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

COMMODITY  
CREDIT  
CORPORATION

KANSAS CITY  
COMMODITY OFFICE  
P.O. BOX 419205  
KANSAS CITY, MO 64141-6205

DATE OF ISSUE: May 1, 1998

**ANNOUNCEMENT KCPG5**

**PURCHASE OF  
GRAINS/MILLED RICE  
FOR USE  
IN EXPORT DONATION PROGRAMS**



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## **ANNOUNCEMENT KCPG5 PURCHASE OF GRAIN/MILLED RICE FOR USE IN EXPORT DONATION PROGRAMS**

### **1. GENERAL**

#### **A. Invitation for Offers**

- (1) The Commodity Credit Corporation (CCC) will from time to time issue an invitation for offers under this announcement to sell bulk grains or milled rice, (hereinafter referred to as grain/milled rice, or product) f.o.b. Vessel or instore, to CCC for use in export programs.
- (2) The invitation will specify the office to which offers are to be submitted, the closing time for receipt of offers, and provisions applicable to the proposed procurement which are in addition to or different from those set forth herein.

#### **B. Terms and Conditions**

- (1) Provisions of "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," USDA-1, Revision No. 2, as amended (USDA-1), are incorporated as specified in Section 5 of this announcement.
- (2) Offerors are cautioned to read all terms and conditions of USDA-1, this announcement, the appendixes to this announcement, and the invitation.

#### **C. Certifications, Representations, and Warranties**

Appendix 1 to this announcement contains certifications, representations, and warranties that must be certified and submitted annually to CCC prior to or with an offer. In addition to an annual submission, offerors must submit an updated Appendix 1 as changes in the certifications, representations, and warranties submitted to CCC occur throughout the year.

## 2. ELIGIBILITY OF OFFERORS

To be eligible to submit an offer under this announcement, the offeror must:

- A. Submit a completed “Solicitation Mailing List Application” (Standard Form 129) to the contracting officer prior to a first offer. Offeror must complete all portions of form SF-129, except Item 18, and include the following additional information for:
  - (1) Item 8. Identify all affiliates including any parent company. Provide full name and main office address. A “parent” company is one that owns or controls the activities and basic business policies of the bidder. An “affiliate” is defined on the back of the form.
  - (2) Item 10. Identify the commodities/products the offeror is interested in supplying.
  - (3) Items 19 and 20. Must be an officer of the company.
- B. Offerors must resubmit form SF-129 as necessary when the information requires updating.
- C. Affirmatively demonstrate responsibility as defined in Federal Acquisition Regulation (FAR) 9.104-1. CCC may request a pre-award survey to be conducted by the Defense Contract Management Command for the purpose of evaluating the offeror’s ability to perform the contract.
- D. Meet the definitions of a dealer or manufacturer as defined below. **Brokers are ineligible to submit offers.**
  - (1) Manufacturer, means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
  - (2) Regular dealer, means a person that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.
- E. Have a Uniform Grain and Rice Storage Agreement (UGRSA) with CCC and be on CCC's List of Approved Warehouses or have in place a put through agreement or other means to assure timely delivery through an export elevator (having a UGRSA with CCC and be on CCC's List of Approved Warehouses), with the ability to load ocean-going vessels and barges from a spout that is physically attached to the grain/milled rice storage location.

- F. Have the ability to issue or cause to be issued export weight and grade certificates covering the exportation of grain/milled rice at the location of the elevator. The certificates must be acceptable to the Federal Grain Inspection Service (FGIS).
- G. Maintain a bona fide business office in the United States for the purpose of exporting grain/milled rice. Additionally, the offeror must maintain an office, employee, or agent for service of process.
- H. Have approved loadout rates for tankers and tween-deckers.
- I. CCC will allow trans-shipment business to be offered providing the origin of the loading is out of the Great Lakes at a CCC approved warehouse with a UGRSA on file. Normally the original laker vessel will be loaded at the UGRSA house and then trans-shipped to a larger ocean going vessel most commonly in the St. Lawrence Seaway.

The grain/milled rice contract will read f.o.b. the UGRSA elevator in the Great Lakes.

The laker freight and the St. Lawrence Seaway elevation will be provided by the ocean carrier as part of the ocean freight contract.

- J. Have a UGRSA with CCC and be on CCC's List of Approved Warehouses and have in place a put through agreement or other means to assure timely delivery through a floating Mid-stream facility for exporting Soybean Meal.
- K. Must be on CCC's List of Approved Warehouses and have in place a put through agreement or other means to assure timely delivery through a dockside facility or a floating Mid-stream facility for exporting Milled Rice.

### 3. SUBMISSION OF OFFERS

#### A. How to Submit Offers

- (1) Offers must be submitted by regular mail, express mail, facsimile, Telex, Easylink, or hand delivered. **(The invitation will specify the office to which offers are to be submitted).** Offers must be a signed original offer form. Reproductions of the offer form are acceptable.
- (2) Envelopes containing the offers are to be sealed and marked with the name and address of the offeror in the upper left corner. Offers submitted by express mail, must be sealed inside a second envelope. All envelopes are to have Optional Form OF-17, Offer Label, filled in and attached or must be plainly marked with the following statement: **"DO NOT OPEN UNTIL PRESCRIBED TIME UNDER ANNOUNCEMENT KCPG5 EXPORT INVITATION (Enter Appropriate Invitation Number)."** If overnight/express service is utilized, this statement must be printed clearly on the outer express envelope, not the mailing label.
- (3) Modifications, withdrawals of offers, and price adjustments may be submitted by

letter, express mail, facsimile, Telex, Easylink, or hand delivered.

- (4) Modifications, withdrawals of offers, and price adjustments may be submitted via facsimile at the offeror's risk. CCC will not be responsible for any failure attributed to the transmission or receipt of facsimile changes including, but not limited to the following:
  - (a) Receipt garbled or incomplete.
  - (b) Availability or condition of the receiving facsimile equipment.
  - (c) Incompatibility between the sending and receiving equipment.
  - (d) Delay in transmission or receipt of price changes.
  - (e) Failure of the bidder to properly identify the information.
  - (f) Illegibility of the information.
  - (g) Security of data.
- (5) Changes by facsimile must contain the required signatures.

**B. Where and When to Submit Offers**

- (1) Offers, modifications, or withdrawals of offers must be submitted to the Kansas City Commodity Office (KCCO) and received by the date and local time specified in the invitation for receipt of offers. In the event such date falls on a business day when KCCO is officially closed, offers must be received by the specified time on the next succeeding business day.
- (2) If mailed, express mailed, or hand delivered, time of receipt will be the time recorded by the Kansas City Management Office (KCMO) mailroom's time stamp.
- (3) If sent by facsimile, time receipt will be the time recorded by the KCMO Communication Center's equipment.

C. Basis of Offer

An offer must express a price per metric ton for the delivery of the grain/milled rice specified in the invitation on either a f.o.b. vessel basis or instore basis as stated in the invitation. In formulating an offer, in addition to the cost of the grain/milled rice, the offeror should consider several factors including:

(1) F.o.b. Vessel Delivery:

- (a) FGIS Vomitoxin Certificate required for wheat (2 parts per million or less).
- (b) Any differential required for loading certain types of vessels. The loading of ocean going barges will be paid at the same rate as bulk carrier.
- (c) Delivery to CCC basis exspout, unstowed, and untrimmed.
- (d) No wharfage or loadout charges paid by CCC.
- (e) Load guarantee.
- (f) FGIS Aflatoxin Certificate required for corn (20 parts per billion or less).
- (g) Dockage on wheat and grain sorghum not to exceed 1 percent. All dockage is deductible.
- (h) Unless offer specifies an exception, offeror is responsible for ensuring that the vessel nominated by CCC is acceptable for loading at the named port facility.
- (i) Offeror agrees to load CCC nominated vessels in rotation with all vessels for loading at the elevator based on when vessels file and are accepted as ready-to-load in all respects. In the event that the elevator, for its own convenience, elects to by-pass CCC nominated vessels to load a vessel which filed and was accepted later than the CCC nominated vessel, such action will be construed as failure or refusal of the offeror to perform under Section 15 of this announcement.

(2) Instore Delivery:

Vessel load provisions will be pursuant to the UGRSA and loadout instructions.

#### **4. ACCEPTANCE OF OFFERS**

- A. CCC will notify successful offerors on the date specified in the invitation. The date of acceptance by CCC will be the contract date.
- B. In addition to the price, factors considered in accepting offers will include the time of shipment, the total cost to the Government to deliver the product to the ultimate destination, and the responsibility of the offeror as demonstrated by prior contract performance.
- C. CCC may accept or reject any or all offers, or portions thereof.

#### **5. PROVISIONS OF CONTRACT**

- A. The contract consists of:
  - (1) Contractor's offer.
  - (2) CCC's acceptance.
  - (3) The applicable invitation.
  - (4) This announcement, including Appendix 1.
  - (5) USDA-1, except Article 50 and all of Part E.
- B. If the provisions of USDA-1, and this announcement are not consistent, the provisions of this announcement will prevail. If the provisions of USDA-1, this announcement, Appendix 1 to this announcement, and the invitation are not consistent, those of the invitation will prevail.
- C. No interpretation or amendment of this announcement is valid or enforceable unless such interpretation or amendment is in writing and executed by the contracting officer.

## 6. NAICS CODE AND SMALL BUSINESS SIZE STANDARD

- A. The North American Industry Classification System (NAICS) code for this acquisition and the small business size standard is:

COMMODITY	NAICS CODE	CORRESPONDING SIC CODE	SIZE STANDARD (EMPLOYEES)
Milled Rice	311212	2044	500
Corn	42251	5153	100
Wheat	42251	5153	100
Sorghum	42251	5153	100
Soybeans	42251	5153	100
Soybean Meal	311222	2075	500
Soybean Oil	311222	2075	500

- B. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- ✓.. C. The U.S. Small Business Administration (SBA) has implemented the Procurement Marketing and Access Network (PRO-Net), which has replaced the former Procurement Automated Source System (PASS). PRO-Net is a procurement related Internet-based electronic search engine for locating small, small disadvantaged, and women-owned small business sources. The PRO-Net Internet address (URL) is (<http://pro-net.sba.gov>). Companies that do not have access to the Internet may register for PRO-Net through your local SBA Office. The PRO-Net is a free electronic gateway to the Commerce Business Daily, government agency home pages, and other sources of procurement opportunities. ✓..

## 7. RESPONSES TO ILLEGAL OR IMPROPER ACTIVITY

- A. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity

- (1) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may:

- (a) Cancel the solicitation, if the contract has not yet been awarded or issued; or
- (b) Rescind the contract with respect to which:
  - 1) The contractor or someone acting for the contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either:
    - a) Exchanging the information covered by such subsections for anything of value; or
    - b) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or
  - 2) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.
- (2) If the Government rescinds the contract under paragraph A. (1) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
- (3) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

**B. Price or Fee Adjustment for Illegal or Improper Activity**

- (1) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph B. (2) of this clause if the head of the contracting activity or designee determine that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (2) The price or fee reduction referred to in paragraph B. (1) of this clause shall be:
  - (a) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of the award;
  - (b) For cost-plus-incentive-fee-contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or “fee floor” specified in the contract;

- (c) For cost-plus-award-fee contracts;
  - 1) The base fee established in the contract at the time of contract award;
  - 2) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the contractor for each award fee evaluation period or at each award fee determination point.
- (d) For fixed-price incentive contracts, the Government may:
  - 1) Reduce the contract target price and contract target profit by an amount equal to the initial target profit specified in the contract at the time of contract award; or
  - 2) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the contracting officer may defer such adjustment until establishment of the total final price of the contract. The total final prices established in accordance with the incentive price revision provisions of the contract award and such reduced price shall be the final contract price.
- (e) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the contracting officer from records or documents in existence prior to the date of the contract award.
- (3) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph B. (2) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (4) In addition to the remedies in paragraphs B. (1) and B. (3) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

## **8. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT**

- A. The Government suspends or debar contractors to protect the Government's interests. Contractors must not enter into any subcontract equal to, or in excess of, the small purchase limitation of \$25,000 with a contractor that has been debarred, suspended, or proposed for debarment unless the acquiring agency's head or designee determines there is a compelling reason for such action (FAR 9.405).
- B. The contractor must require each proposed first-tier subcontractor, whose subcontract shall

exceed the small purchase limitation of \$25,000, to disclose to the contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the federal government.

- C. A corporate officer or a designee of the contractor must notify the contracting officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (See FAR 9.404 for information on the List of Parties Excluded from Federal Procurement Programs). The notice must include the following:
- (1) The name of the subcontractor;
  - (2) The contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement Programs;
  - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement Programs;
  - (4) The systems and procedures the contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

## **9. COMMODITY SPECIFICATIONS**

A. Domestic Origin

- (1) The product delivered under this announcement must be produced in the United States from commodities produced in the United States.
- (2) The product delivered under this announcement will not be considered to be produced in the United States if it contains any ingredient not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.
  - (a) An "ingredient" means any component of the product including, but not limited to, vitamin premixes, or mineral enrichments and Tricalcium phosphate.
  - (b) "Commercially available in the United States at fair and reasonable prices" means any ingredient produced in the United States, the price of which has currently been determined by CCC to be both competitive and reasonable.

- (3) For purposes of this section, the following definition applies:

"Produced in the United States" means manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution, from components originating in the United States. Components originating in the United States which have been exported, and subsequently imported back into the United States, will not be considered as having been produced in the United States.

- (4) The contractor must maintain records to verify that during the contract shipping period, at the point of packaging or, in the case of bulk commodities, at the point of delivery to CCC, the product was in compliance with the domestic origin requirements of this section of the announcement. (See Article 76 of USDA-1)
- (5) CCC will randomly conduct domestic origin compliance reviews to determine if the product delivered to CCC was produced and manufactured in the U.S. from materials produced and manufactured in the U.S. Upon request, the contractor must submit documentation substantiating compliance to the contracting officer for review. This documentation may include procurement, production, inventory, delivery, and any other pertinent records. Onsite reviews may also be performed, at the discretion of CCC.

- B. The invitation will specify the quality of grain/milled rice or product required.
- C. The definitions, grades, and grading factors used in all determinations under this contract will be those contained in the Official United States Standards for Grains/Milled Rice issued by FGIS and in effect at the time of purchase by CCC.

## **10. DELIVERY**

- A. CCC will give the contractor at least ten (10) days advance notice of vessel readiness.
- B. Grain/milled rice or product offered to CCC for purchase must be delivered from points within the continental United States.
- C. F.o.b. Vessel: The grain/milled rice or product must be delivered f.o.b. vessel, exspout, unstowed, and untrimmed at the approved UGRSA port facility specified in the contract. The grain/milled rice or product must be deemed to have been delivered on the date as shown on the applicable on-board Bill of Lading.
- D. Instore: The grain/milled rice or product must be delivered instore at an approved UGRSA warehouse. Contractor must furnish certified forms CCC-228 or Warehouse Receipts with an invoice for payment.

- E. If multiple contracts are awarded on an invitation to the same contractor who has designated the same loading berth, the contractor shall complete loading in one continuous berthing. If the contractor elects not to complete loading in one continuous berthing, the contractor will be liable for any charges associated with shifting and reberthing as provided in the Charter Party. In addition, the contractor will be liable for any charges as provided in Announcement KCPG5 and the applicable invitation.

## **11. TITLE AND RISK OF LOSS**

- A. F.o.b. Vessel: Title and risk of loss will pass to CCC upon delivery.
- B. Instore: Transfer of title to CCC will occur when certified forms CCC-228 or Warehouse Receipts are received by CCC.

## **12. OFFICIAL EXPORT INSPECTION AND WEIGHING (f.o.b. VESSEL)**

Using only FGIS official samples, the grade, class, subclass, all individual quality factors, protein content (if applicable), and quantity of the grain/milled rice delivered f.o.b. vessel must be established by official FGIS analysis at the time of loading to vessel and officially certified by the FGIS on clear white grade certificates and weight certificates. The cost of inspection and weighing is for the account of the contractor.

## **13. INVOICES FOR PAYMENT**

- A. F.o.b. Vessel: The contractor's invoice must be furnished in original and two copies supported by:
  - (1) A copy of signed on-board Ocean Bill of Lading or copy of Mates' Receipt;
  - (2) Appropriate FGIS Official Export Weight and Clear White Grade Certificates;
  - (3) FGIS Protein Analysis (if applicable);
  - (4) FGIS Aflatoxin Certificate (if applicable);
  - (5) One copy of Phytosanitary Certificate, if required; and
  - (6) FGIS Vomitoxin Certificate (if applicable)
- B. Contractor must forward original Mates' Receipt to CCC's representative within 48 hours after completion of vessel loading.
- C. All required documentation is at contractor's expense.

- D. Invoicing and payment will be handled in accordance with Article 70, USDA-1. Invoices must be mailed to:
- (1) By regular mail:
- Kansas City Commodity Office  
WCD/GCB  
P.O. Box 419205  
Kansas City, MO 64141-6205
- (2) Users of various express delivery services:
- Kansas City Commodity Office  
WCD/GCB  
Suite 150, First Floor  
9200 Ward Parkway  
Kansas City, MO 64114-3315  
(Hours: 7:00 A.M. - 5:00 P.M.)
- E. Payments may be made directly to a financial banking institution. To receive payments electronically, Standard Form 1199A, Direct Deposit Sign-Up Form and Form W-9, Request for Taxpayer Identification Number and Certification, must be completed. The Debt Collection Improvement Act of 1996 amended 31 U.S.C. 3332 requires Federal agencies to convert all Federal payment from checks to electronic fund transfers no later than January 1, 1999. If you have any questions or would like these forms mailed to you, contact Commodity Financial Operations Division, ICB.
- F. CCC will make payment in accordance with the requirements of the Prompt Payment Act.
- G. Vessel underfills and overfills are to be settled in cash at the market value, as determined by CCC, on the day following the date of Bill of Lading.
- H. Instore: Contractor must submit an invoice in original and two copies supported by forms CCC-228 or negotiable Warehouse Receipts.

#### **14. COMPENSATION OF CONTRACTORS FOR DELAY BY CCC (f.o.b. VESSEL ONLY)**

If CCC fails to take delivery by the end of the delivery period for reasons beyond the control of the contractor, CCC will pay carrying charges at the rate of 18 cents per metric ton per day beginning on the day following the end of the delivery period and continuing through the date the vessel presents the notice of readiness, unless such failure is for causes as defined in Article 68 of USDA-1.

## **15. DAMAGES**

- A. In addition to load guarantee, the contractor will be liable and must reimburse CCC for any actual damages suffered by CCC resulting from any failure or refusal of contractor to perform, which is not excusable under Article 68 of USDA-1.
- B. Such actual damages may include, but are not limited to, the cost of demurrage, interport vessel relocation, vessel discharge costs, reprocurement costs and claims by carriers for damages resulting from delays in loading resulting from the grain/milled rice not being available for loading, or for delays or slowness of loading the vessel.

## **16. INQUIRIES**

Inquiries pertaining to USDA-1 and this announcement should be directed to:

Kansas City Commodity Office  
Bulk Grain Division  
P.O. Box 419205  
Kansas City, MO 64141-6205

Alan King  
Director  
Kansas City Commodity Office